

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

FEDERAL ELECTRIC CORPORATION

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -8294

Decision No. CU - 3799

Counsel for claimant:

Covington & Burling
By Stanley L. Temko, Esquire

AMENDED PROPOSED DECISION

By Proposed Decision issued August 20, 1969, the Commission denied this claim for a debt owed by a United States corporation since the debt was not a charge on property which had been nationalized, expropriated, intervened, or taken by the Government of Cuba. Further evidence having been submitted, and the matter considered, it is

ORDERED that the Proposed Decision be and it is hereby amended.

The Commission now finds that the Cuban Telephone was indebted to claimant in the amount of \$29,640.00 and the assets of the Cuban Telephone Company were nationalized by the Government of Cuba on August 6, 1960.

In its decision entitled the Claim of International Telephone and Telegraph Corporation (Claim No. CU-2615 which is incorporated herein by reference), the Commission held that debts of the Cuban Telephone Company were certifiable as losses under Title V of the Act, since the corporation was no longer in existence, to American nationals under the facts and conditions set forth therein.

On the basis of evidence in the record in the instant claim, the Commission finds that this claimant is an American national at the requisite time, and that it was a wholly owned subsidiary of International Telephone and Telegraph Corporation, and that it sustained a loss in the amount of \$29,640.00 on August 6, 1960 as a result of the nationalization of the assets of the Cuban Telephone Company by the Government of Cuba within the meaning of Title V of the Act.

Accordingly, the following certification of loss will be entered and in all other respects the Proposed Decision is affirmed.

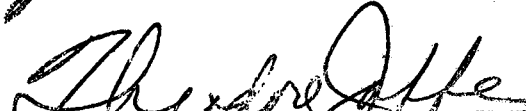
CERTIFICATION OF LOSS

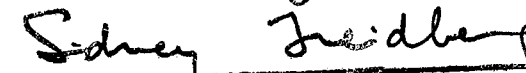
The Commission certifies that FEDERAL ELECTRIC CORPORATION suffered a loss, as a result of action of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twenty-Nine Thousand Six Hundred Forty Dollars (\$29,640.00) with interest thereon at 6% per annum from August 6, 1960 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Amended
Proposed Decision of the
Commission.

AUG 6 - 1970


S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Amended Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

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by Stanley L. Temko, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by FEDERAL ELECTRIC CORPORATION in the amount of \$29,640.00 based upon the asserted loss of payment for services rendered to Cuban Telephone Company.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

The record shows that FEDERAL ELECTRIC CORPORATION was organized under the laws of Delaware and that at all pertinent times more than 50% of the outstanding capital stock has been owned by United States nationals. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

Claim is made herein for the sum of \$29,640.00 assertedly due claimant from the Cuban Telephone Company for services rendered.

Section 505(a) of the Act provides:

. . . . A claim under Section 503(a) of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico shall be considered only when such debt or other obligation is a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The Commission has already determined that claim may not be maintained under Title V for debts due from entities qualifying as United States nationals if the debts owed were not charges on property which was nationalized, expropriated, intervened or taken by the Government of Cuba. (See Claim of Anaconda American Brass Co., Claim No. CU-0112, 1967 FCSC Ann. Rep. 60; Claim of The First National Bank of Boston, Claim No. CU-2268).

The records of the Commission reveal that Cuban Telephone Company is a United States corporation organized under the laws of the State of Delaware qualifying as a United States national. Therefore this claim can

be considered only if the claimed debt is a charge upon property which was nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimant has neither alleged nor submitted evidence to establish that this debt was a charge upon property which was nationalized, expropriated, intervened, or taken by the Government of Cuba. Therefore the Commission is without authority to consider this claim, and it is hereby denied.

Dated at Washington, D.C.,
and entered as the Proposed
Decision of the Commission

AUG 20 1969

Leonard v. B. Sutton
Leonard v. B. Sutton, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

Sidney Freidberg
Sidney Freidberg, Commissioner

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CU-8294